

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PLATYPUS WEAR, INC., <i>et al.</i> ,)	Civil No. 07CV-1064-L(WMc)
)	
Plaintiffs,)	ORDER DENYING AS MOOT AND
)	WITHOUT PREJUDICE
v.)	DEFENDANTS' MOTIONS TO
)	TRANSFER VENUE AND TO
HORIZONTE LTDA, <i>et al.</i> ,)	DISMISS [doc. #3, 4]
)	
Defendants.)	
)	
_____)	

Defendants removed this action from the Superior Court of California, County of San Diego, on June 11, 2007. Defendants then moved to transfer venue and to dismiss for insufficiency of service of process and lack of personal jurisdiction. [doc. #3, 4]. The motions are set for hearing on August 13, 2007.


On July 12, 2007, plaintiffs filed a First Amended Complaint [doc. #6]. An amended complaint supersedes a prior complaint as a pleading. *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997); *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). Thus, where a plaintiff elects to file an amended complaint, a district court may treat an existing motion to dismiss as moot. Because then-pending motions to dismiss are moot upon the filing of an amended complaint, defendants may reurged any issue with respect to the amended complaint without prejudice.

Based on the foregoing, **IT IS ORDERED** denying as moot and without prejudice

1 defendants' motions to transfer venue and to dismiss for insufficiency of service of process and
2 lack of personal jurisdiction. [doc. #3, 4]. **IT IS FURTHER ORDERED** vacating the August
3 13, 2007 hearing date on defendants' motions. **IT IS FURTHER ORDERED** that defendants
4 shall have until August 1, 2007 in which to answer or otherwise respond to the first amended
5 complaint.

6 **IT IS SO ORDERED.**

7 DATED: July 18, 2007

8 
9 M. James Lorenz
United States District Court Judge

10 COPY TO:

11 HON. WILLIAM McCURINE, JR.
12 UNITED STATES MAGISTRATE JUDGE

13 ALL PARTIES/COUNSEL
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